

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER W. FOX,

Plaintiff,

Case No. 1:13-cv-407

v

HON. JANET T. NEFF

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

OPINION AND ORDER

Plaintiff Peter W. Fox, proceeding *pro se*, initiated this action seeking a court order compelling the Federal Bureau of Investigation to conduct an investigation into Plaintiff's purported wrongful conviction in state court. Because Plaintiff was permitted to proceed *in forma pauperis* in this matter, the Magistrate Judge conducted an initial review of the Complaint pursuant to 28 U.S.C. § 1915(e)(2) to determine whether it is frivolous, malicious, or fails to state a claim upon which relief can be granted. The Magistrate Judge issued a Report and Recommendation (R&R, Dkt 8), recommending that this Court dismiss Plaintiff's claim for failure to state a claim upon which relief may be granted. The matter is presently before the Court on Plaintiff's "Motion to Reconsider," which was docketed as objections to the Report and Recommendation (Dkt 9). Also pending is Plaintiff's Motion to Appoint Counsel (Dkt 3). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections, denies the Motion to Appoint Counsel, and issues this Opinion and Order.

The Magistrate Judge determined that Plaintiff's request that "the Court order the Federal Bureau of Investigation to conduct an investigation into Plaintiff's conviction in the 56th Circuit Court in Eaton County, Michigan . . . fail[s] to state a claim upon which relief may be granted in this Court" (R&R, Dkt 8 at 3). Indicating that he "disagrees with the Report and Recommendation," Plaintiff argues that (1) "the Court failed to direct the FBI to provide the recommended investigation requested by plaintiff;" (2) "the Court failed to respond to my request for a court appointed attorney for the plaintiff in this ongoing case originating in the Michigan 56th District Court system in 2007;" and (3) "the Court in its Report and Recommendations response was vague, ambiguous, and non-specific" (Pl. Objs., Dkt 9 at 1).

Plaintiff's arguments fail to demonstrate any factual or legal error by the Magistrate Judge. Rather, under the applicable standard, the Magistrate Judge properly concluded that the allegations in Plaintiff's single-page complaint are insufficient to state a claim that is plausible on its face. *See generally Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Therefore, Plaintiff's objections are denied, and the Magistrate Judge's Report and Recommendation is approved and adopted as the Opinion of the Court.

Plaintiff's Motion to Appoint Counsel is therefore also properly denied. "The appointment of counsel in a civil proceeding is not a constitutional right," *Lanier v. Bryant*, 332 F.3d 999, 1006 (6th Cir. 2003), and appointment of counsel is not justified where, as here, the pro se litigant's Complaint fails to state a claim or the chances of success are extremely slim, *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). Accordingly:

IT IS HEREBY ORDERED that the Objections (Dkt 9) are DENIED and the Report and Recommendation (Dkt 8) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that Plaintiff's Motion to Appoint Counsel (Dkt 3) is DENIED.

Dated: October 31, 2013

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge